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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,363

04/01/2004

Yanming Liu

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33751

7590

08/07/2006

WILSON GREATBATCH TECHNOLOGIES, INC.  
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EXAMINER

LEADER, WILLIAM T

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/816,363	LIU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William T. Leader	1742	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/1/2004</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, drawn to an electrolyte, classified in class 205, subclass 332.
  - II. Claims 16-20, drawn to a process for anodizing, classified in class 205, subclass 122.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the electrolyte of the Group I claims can be used in processes other than that of the Group II claims. For example, the electrolyte could be used as a capacitor electrolyte.
3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Michael Scalise on October 3, 2005, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-15. Affirmation of this election must be made by applicant in replying to this Office action. Claim 16-20 are

withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Komatsu et al (6,288,889).

8. The Komatsu et al patent is directed to an electrolytic solution. The solution comprises a protic solvent such as ethylene glycol. See column 3, lines 1-15. The solution further comprises an electrolyte selected from organic acids, inorganic acids and salts of inorganic acids. See column 3, lines 35-57. Ethylene glycol has a molecular weight of 62. Thus, the constituents of the electrolyte recited in independent claims 1 and 11 are met by Komatsu et al. As shown in the tables, the solvent and electrolyte are at a predetermined ratio as recited in paragraph c) of claim 1 and paragraph d) of claim 11. Paragraph d) of claim 1, paragraphs c) and e) of claim 11, claim

2 and claim 10 relate to an intended use of the recited composition. These statements of intended use do not distinguish the claimed composition from that of Komatsu et al.

9. Komatsu et al discloses the inclusion of organic acids as recited in instant claims 3 and

12. With respect to claims 4 and 13, Komatsu et al disclose the inclusion of ethylene glycol.

With respect to claims 5, 6 and 14, Komatsu et al discloses that the electrolytic solution contains solvent, electrolyte in an amount of 3-30% (column 3, lines 58-65) and a chelate additive in an amount of 0.01 to 3% (column 5, lines 52-55). Consequently, solvent is present in an amount of less than 96.99%. The protic solvent constitutes up to 80% of the solvent (column 3, lines 26-29). Thus, the protic solvent is present in an amount up to 76.8%. This range anticipates the range of up to 90 volume percent recited in instant claim 5 in the region where the ranges overlap. Claims 6 and 14 recite that the protic solvent is present in an amount from about 60 to about 85 volume percent. In example 18 ethylene glycol is present in an amount of 63%. In example 18, ammonium adipate, a salt of an organic acid, is present in an amount of 9.5% which anticipates the range recited in instant claims 9 and 15.

### ***Claim Objections***

10. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 fails to further limit claim 2 from which it depends.

Art Unit: 1742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William T. Leader whose telephone number is 571-272-1245. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WL

William Leader  
June 16, 2006

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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700